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United States Department of State

Washington, D.C. 20520

January 15, 1983

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Senior Interagency Group No. 27

TO : OVP - Mr. Donald Gregg
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AID - Mr. Gerald Pagano

SUBJECT: Clearance of Policy Study on Base Negotiations

Attached is the final version of the study of bilateral defense cooperation negotiations which was requested last July 16, 1982 by the Special Assistant to the President for National Security Affairs. The study has been approved by all members of the Base Negotiations IG. It reflects editorial improvements and single-agency views incorporated since the August 31 version received, except for several DOD reservations, full interagency clearance. The paper's basic substance and tenets have remained the same.

Judge Clark has specifically requested that the cleared study arrive at the NSC by January 26. This is a firm deadline, and it is necessary that we have a SIG-level clearance by January 19. Please ensure, therefore, that the study and its executive summary are reviewed at your agency's senior policy-making level.

Addressees are requested to telephone clearance or comments to Tain Tompkins at 632-5804 by COB Wednesday, January 19.

L. Paul Bremer, III
Executive Secretary

Attachment:
as stated

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January 14, 1983

THE BASE NEGOTIATIONS STUDY

Senior Interagency Group No. 27

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NOTE ON CLASSIFICATION

The contents of this paper and its tabs are Confidential with the exception of the following, which are Secret:

- page 6, last paragraph
- page 7, first paragraph (continuation)
- page 16, first paragraph under III.3
- tab 1

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BASE NEGOTIATIONS STUDY

I. EXECUTIVE SUMMARY

At the request of the Assistant to the President for National Security Affairs (Tab 1), the Base Negotiations IG has conducted an examination of recent negotiations with five allies--Turkey, Greece, Spain, Portugal, and the Philippines--the "big five"--which host major US facilities. While the US also has access to facilities in other countries (eg., Morocco, Oman, Kenya, Somalia), each uniquely important to American defense requirements, the IG decided to concentrate on the major agreements which involve comprehensive security arrangements.

The study concludes that, in each of the negotiations since 1974 with the "big five," we have met our overall objective of maintaining bilateral security cooperation relationships. In addition, our minimum, if not always our maximum, objectives, were achieved. The findings indicate that each negotiation influences subsequent talks, particularly with respect to quids and operating rights. This spillover among the five, however, is secondary to the state of the overall bilateral relationship and the dynamics of the host country's domestic politics.

Although our ability to offer quids in defense cooperation negotiations is necessarily limited, the applicable legislation is not now overly restrictive. The restrictions on military activities overseas enacted in annual authorization and appropriation legislation during the late Viet-Nam era are now for the most part no longer in effect. The remaining general statutory provisions are ones that the Executive Branch has generally supported or initiated in light of broader policy objectives and partly as a means of deflecting the quid demands by host countries.[1] With respect to our worldwide security

Note 1: Defense believes that, in this regard, we should stand resolute against creating a condition wherein the granting of a waiver to the recoupment of research and development costs and asset use charges is an expectation. The law requires full recovery of such costs but does allow the Executive Branch to approve requests for waivers only under very unusual circumstances.

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assistance, the study found that these five countries are now claiming nearly half. In light of this, the study recommends that a separate analysis of new or improved approaches to guids is needed--and which is already underway.[2] This study will also analyze the relative merits of a pledge of annual, non-specific "best efforts" in the area of defense support (including security assistance) as opposed to specific commitments.

Recent increases in restrictions on US facilities and operations stem largely from our growing out-of-area uses, chiefly for the Middle East. These activities have become ever more sensitive politically with the increasingly divergent views of our allies. We looked at the comparative advantages of having the US side in base negotiations led by the resident Ambassador or by a special negotiator. While Defense would like to see the use of special negotiators become the generally accepted procedure, State prefers the circumstances of each case to determine its position. All agree that special negotiators do have merit, particularly for complicated or lengthy talks.

Even though no universal prescription applies to all of the major base negotiations, a conceptual framework for examining US interests in terms of both global military operational requirements and our overall bilateral relationships with the base hosts is desirable and should be developed for each negotiation. Such a framework would enable us to understand more clearly our negotiating objectives and the costs involved in achieving them.

We identified the need to strike a balance between avoiding adverse precedents for future agreements and the utility of finding solutions in current negotiations, in particular when the formulas are new or different from earlier ones. Finally, effective negotiation, with results satisfactory to all interested elements of the US Government, depends upon full interagency agreement on the negotiating objectives and the strategy and tactics for pursuing them.[3]

Note 2: All of the agencies except DOD recommend that a comprehensive analysis of our overseas facilities and the criticality of their missions (with particular emphasis on the "big five") would be most useful and would greatly assist the development of a global view of our mutual security needs. Defense opposes such a study on the grounds that it would fail to highlight the dynamics of the country or region concerned and would be overcome by events before its completion.

Note 3: (DOD) ... and the self-discipline of the negotiators to stay within them.

I. Analysis of Recent Negotiations

1. INTRODUCTION

There are several types of arrangements between the US and foreign countries relating to the use of military facilities. Some, such as our satellite tracking station agreement with the Seychelles, involve a particular activity, often in exchange for rent. Others, such as our en route access agreements with Morocco and countries on the Indian Ocean littoral, are comparatively simple arrangements primarily designed to facilitate our access to the region. The most comprehensive arrangements are those with countries which have received a security commitment from the US in a bilateral or multilateral agreement and are host to significant US forces.

In this last grouping, states such as the UK, Japan, the FRG, and Italy no longer receive security or economic aid from us. However, Turkey, Greece, Spain, Portugal, and the Philippines--among the top ten aid recipients--do continue to look to the US for various forms of assistance, partly as a consequence of our military activities on their soil. This study primarily addresses defense cooperation negotiations since 1974 with these five countries. A brief description of significant negotiations expected through 1984 is attached at Tab 5.

2. EFFECTS OF ONE AGREEMENT ON ANOTHER

A comparison of defense cooperation agreements concluded or drafted during the past several years with Turkey, Greece, Spain, Portugal, and the Philippines shows important similarities in form and substance. This is largely because each of these countries generally studies with care the unclassified agreements we reach with the others; each also attempts to learn what it can about the classified portions in which we generally seek to incorporate the restrictions on our operations. The result is that those elements seen as favoring the host country are frequently sought by the other side in future negotiations through the argument that the US should surely agree to what it has accepted elsewhere. And, as we are negotiating new agreements with each of these five hosts about every five years, most of the concessions granted to one are finding their way into successive agreements with the others.

In focusing on this spillover effect, however, we should not exclude other important factors. The state of the overall bilateral relationship and, equally important, the interplay of internal politics in the host country remain determinant influences in shaping the agreements reached. At the same time, the defense cooperation agreement is an important measure against which each side views the state of the overall bilateral relationship, particularly in view of the trend to have the agreement encompass non-defense matters as well, such as industrial, scientific, technological, and cultural cooperation.

3. TO WHAT EXTENT HAVE U.S. NEGOTIATING OBJECTIVES IN RECENT AGREEMENTS BEEN MET?

Since 1974, we have carried out the following negotiations, although a new agreement did not enter into force in each case:

74-76	Turkey	78-79	Portugal
75-76	Spain	78-80	Turkey
75-77	Greece	80-81	Greece
78-79	Philippines	81-82	Spain

Each of these eight negotiations is examined separately at Tab 4 in terms of our maximum and minimum objectives, the degree to which the objectives were achieved, and how the agreement reached compares to earlier arrangements. Some more general observations are given below.

In each of these negotiations, it can be said that we met our overall objective of preserving the framework of our security relationships. This has meant the continuation of most existing military missions and, in some cases, additions. Yet, we have not achieved written provisions giving us the confidence that all of the specified missions could be carried out without undue restrictions even under routine circumstances. In addition, the status quo in most categories of defense cooperation has been eroded. A number of factors account for this, ranging from a heightened concern over our out-of-area activities to growing nationalism among now democratic allies with their partially diverging world perspectives.

The same factors have also led our allies to seek ever greater concrete benefits as "compensation" for our use of their territory and the "risks" to which our activities subject them. The charts at Tab 2 depict the increasing security assistance to these five countries during the past 10 years and show that they have tended as well to claim an ever growing portion of the overall aid budget: while in FY 73 they

only took 14%, by FY 83 it had become 46% (Tab 2, chart 3). (Aid to Israel and Egypt is excluded from this comparison because their levels have changed so dramatically through the years.) Beginning in the mid-Seventies, these allies have sought to create a relationship between our use of facilities and our security assistance. This current attitude on security assistance manifests itself not only in demands for direct assistance through funds and equipment but also in requests for indirect benefits such as the no-cost use of our assets on their soil, off-shore procurement, and limits on our contracting with US vendors.

Defense industrial cooperation, either in the form of reciprocal procurement memoranda of understanding or as part of larger defense cooperation agreements, is increasingly seen by our allies as a means to counteract their unfavorable balance in military trade with the US. We have avoided commitments contrary to US law or policies and, thus, in one sense have achieved our negotiating objective. Yet, we experience growing difficulty in convincing our allies that such arrangements, while providing a basis for increased cooperation, do not guarantee specific results.

With respect to the status of forces agreements (SOFAs), we have achieved our basic objective of securing adequate legal protection of our personnel and assets. However, gains on particular issues had been offset by losses elsewhere, with no trend discernible. Precedents weigh particularly heavily in SOFA bargaining; each side uses them equally in buttressing its positions.

4. STATUTORY AND POLICY CONSTRAINTS, INCLUDING THE "BEST EFFORTS" STRATEGY

We cannot conduct defense cooperation negotiations in a vacuum or without constraints. The constraints may be categorized as direct and indirect. In the direct category, we may distinguish between "active" factors such as the perceived need to secure certain levels of security assistance or particular changes in the law from the Congress to "passive" factors such as legal restrictions or Executive Branch policy already in effect.

Constraints in the indirect category are more amorphous and numerous. These consist of the entire web of bilateral and multilateral issues affecting the state of our relationship with the base host, and run the gamut from security-related matters such as intelligence exchange and joint operations of activities to matters farther afield, such as commercial and trade relationships.

The most commonly encountered difficulties in base negotiations are those having to do with defense support in the form of security and associated economic assistance. During the past seven years, the Executive Branch's approach to this issue has varied. In the period of 1975-79, the Executive Branch agreed to seek specific amounts of assistance for each of the five countries for the duration of the agreements. In the case of Spain, this was done in the treaty rather than in side letters. Even though this multi-year commitment was expressly conditioned on US laws and the appropriation of funds, the Congress (primarily at the insistence of the House of Representatives) made it quite clear that it would not agree to multi-year obligations of security assistance. The Senate's advice and consent to the 1976 treaty with Spain was made subject to a declaration that the annual appropriation process would still have to be followed.

In the 1980's to date, the Executive Branch has only offered (so far successfully with Turkey and Spain) a non-specific pledge of annual "best efforts." The coming year's aid at the time of conclusion of the new agreement has been taken by the other party as a benchmark by which it judges for itself the quality of our pledge. This approach does allow the USG more flexibility in adjusting its aid programs each year following the completion of the Congress's appropriation process. Also, it avoids a commitment to aid levels in out-years which we may wish to change in light of a change in our overall relationship with the recipient or in our use of the facilities. At the same time, it makes it difficult for both parties to plan rationally for the recipient's force development. Whether we "save" on quid over the life of a base agreement through a non-specific pledge is problematical; opinions vary widely.

In either approach, the US has maintained that security assistance is being provided because of common defense interests and the recognized needs of the recipient. The rationale for this position is that the payment of a quid publicly recognized by the US as such would dilute the fundamental basis of a mutual security relationship and in time perhaps even sour it as quids rather than shared security interests became the focus of the relationship. It would also result in severe challenges within the Congress to a policy of paying certain allies for their cooperation in pursuing what we view as shared security objectives. The paying of rent, however, has remained an acceptable tool where no overall defense relationship exists and if the agreement deals with narrow functions, such as satellite tracking stations.

(S) NSDD-32, which came into effect last summer, recommended the use of multi-year commitments on security assistance

as a means of assisting recipients to develop their forces more rationally as well as enabling the US to plan its expected security assistance needs better. While the impact of this decision on future negotiations is still uncertain, the Executive Branch will likely be more willing now during base negotiations to extend multi-year "planning" figures to host countries.

The main quids sought by foreign countries during base negotiations consist of grants or loans of defense articles and favorable USG financing of defense purchases from American sources. Such quids may be provided only through the general authorities of the Foreign Assistance Act of 1961, as amended, and the Arms Export Control Act. Funding for these programs is of course done on an annual basis. Although this legislation is complicated and detailed, it generally permits assistance under these authorities as long as Congress is willing to appropriate funds. Many proposals made for loans or grants during recent base negotiations involved requests for assistance for which there was no funding. Had funding been available, existing legislation would generally not have barred the aid.

During past negotiations, both US and opposing negotiators have periodically proposed that the Department of Defense fund certain grants or activities in connection with base rights. 4
For example, in certain recent negotiations, the other side proposed the US Air Force provide aircraft out of its stocks directly as a quid (eg., without any charge to the appropriate foreign assistance account). The US was not able to agree. 5

NOTE 4: DOD is of the opinion that such proposals have been made, both inadvertently and deliberately, outside of the guidelines of relevant USG policy and legal constraints governing the ability of DOD to transfer equipment, services, or funds.

NOTE 5: DOD believes that, as another example, the issue of waiver of recurring research and development costs and asset use charges figured prominently in the Spanish negotiations of 1981-82. In DOD's view, we created an expectation that such waivers could be a matter of course (Spain has requested five such waivers to date). This expectation is to be discouraged as the law currently demands that we recover all such costs; waiver can be granted to requesting governments only under very unusual circumstances after stringent prerequisites are met.

As DoD funds can generally be used only for that department's own direct benefit, such donations or expenditure of DoD funds cannot be made unless the specific authorization of Congress is obtained in advance. Securing such consent is particularly complicated due to the conflicting jurisdictions involved within the Congress: foreign affairs committees for security assistance, military affairs committees for the Defense Department. DOD funds can, of course, be used to rent the use of facilities.

In the latter years of the Viet-Nam War, a number of restrictions were enacted in the annual authorization and appropriation legislation largely as a result of the Congressional belief that the Executive Branch had been repeatedly circumventing in Southeast Asia and elsewhere the intent of existing law on military aid. This has led to the perception that important legislative constraints exist relating to base rights. However, most of these Viet-Nam era provisions are no longer in effect. The current statutes which govern foreign military aid, the loan or lease of US military equipment, and the expenditure of military construction funds abroad reflect policies supported by the Executive Branch or requirements that access/base agreements be negotiated before certain funds can be expended or activities performed.

For example, Section 405(a) of the Military Construction Authorization Act, 1981 (PL 96-418) provided that none of the funds authorized to be appropriated under the Act could be obligated or expended for construction in the Middle East and Indian Ocean areas until a formal access agreement was concluded which guaranteed the US the right to have access to the facilities to be constructed. The Congress also has had a policy of requiring such agreements in cases not covered by this act (e.g., other than Oman, Somalia, and Kenya). While Congress did make a limited exception to the policy in the case of Egypt when it proceeded with the funding of construction at Ras Banas without a formal access agreement, it recently denied more funding in part due to the lack of an agreement.

Other legislative provisions usually raised in connection with base or access negotiations are those which obligate US military authorities to comply with US contract and procurement law in acquiring articles and services overseas (e.g., to award a contract to the lowest eligible and qualified bidder regardless of whether the contractor is a US or local national) or to give certain preferences to procurement in the US, subject to any applicable international agreement (e.g., section 906 of the Military Construction Authorization Act, 1982, PL 97-99). Another is the general prohibition on hiring

preferences for local nationals at overseas facilities unless an international agreement provides for such a preference (section 106 of PL 92-129, 5 USC Supp. III 7201 note). While these requirements are at times an irritant involving costs and trade-offs in base negotiations, they have proven to be manageable. For example, in the current negotiations dealing with construction (not access) at Ras Banas, the Egyptians have objected to our procurement laws. Although the Egyptians may be posturing, the procurement laws are sufficiently flexible to meet the Egyptians' objectives once they decide to reach a compromise with us.

In addition, some foreign countries have requested that the US provide reciprocal rights comparable to those accorded US personnel in their country whenever their own military personnel visit the US. Such rights can generally only be provided by treaty or statute because they involve rights reserved to the individual States under the Constitution (eg., exemptions from state taxes and criminal jurisdiction). Largely on policy grounds, the US has been reluctant to negotiate agreements which provide such rights and has resisted doing so by citing the constraints of US law.

5. FLEXIBILITY IN OPERATING RIGHTS

The prolonged and difficult negotiations with most of the five major base hosts since 1974 have led to the perception that the new agreements, at least with our southern European allies, contain more extensive restrictions upon our activities than earlier ones. Primarily, however, recent restrictions have come about through evolving practice rather than changes in the terms of the agreements themselves. The wording of the agreements negotiated in recent years does not differ substantially from the earlier ones with respect to the basic purposes for which facilities may be used. Most of these restrictions have not so much concerned our operations in and around the host countries themselves--port calls, SOFA rights or in-country deployments for training exercises--as they have our aircraft transits and overflights for non-NATO missions or "out-of-area" destinations. Because attention chiefly focuses on the degree of our flexibility in transits and overflights, the balance of this section is devoted to this type of operational flexibility.

The sense of increased operational restraint stems from the heightened sensitivity by most foreign governments over the uses of their territory. While a number of factors account for this, the chief one is the emergence of a European outlook in

contrast to the US view, most visible in matters concerning the Middle East. Europeans have expressed this new outlook by a lack of enthusiasm at times for facilitating some of our security policies outside of the NATO arena which depend for their execution on at least passive cooperation from our European allies. This sensitivity has been intensified since the 1973 Middle East conflict, which resulted in protests from several European countries over the use of their territory by the US for non-NATO purposes. These constraints, in effect, are generally ones that could have been imposed in the 1950s by any of the host states under agreements in effect at the time.

However, a simple comparison between the more unrestricted use we enjoyed previously and what we have now is misleading, since until ten years ago we measured operational flexibility primarily in terms of the areas in relatively close proximity to the bases in question. Now that US "out-of-area" operations have assumed greater importance, most allies, including the four major base agreement hosts in Southern Europe, seek greater controls over our activities on their soil, in particular a veto of US operations believed to be at odds with their interests or policies. (Our SW Asian strategy has sought, with fair success, to ensure that alternative routes--through the UK and the FRG, through Morocco, and through the Pacific--are available in lieu of the ones through southern Europe.)

Many of our allies seek to distinquish more clearly between US operations which are related to NATO and those which are not. At the same time, the suspicion prevails that we might seek to support our unilateral requirements under cover of operations apparently associated with NATO. Thus, even when a distinction has been established, to a limited extent the trend is also toward more controls on all of our transit/overflight operations. Notwithstanding these general trends, the degree of transit/overflight flexibility we enjoy in actual practice in the various countries ranges from nearly unrestricted in Portugal to significantly fettered in Turkey and Spain.

Although recent agreements contain more detail with respect to US obligations and constraints, the fundamental limitations are similar to the ones agreed to by the US in the early 1950's. Foreign governments have not been willing to grant the United States an unlimited right to use their territory, and they have insisted on a right to veto sensitive transits or activities which are not connected with the bilateral or multilateral defense relation.

For example, while the 1954 agreement on the use of military facilities in Italy provides that the facilities will only be used for NATO purposes, in practice we have been permitted to use Italian facilities for many non-NATO activities. The 1949 agreement with the United Kingdom on overflights specifies that politically sensitive flights must receive prior approval at the political level on a case-by-case basis. (Approval is almost never denied.) The agreement with Portugal on the use of the Azores is ambiguous, and the US has maintained that it gives us broader rights, including the right to use the facilities for non-NATO purposes. While denying this interpretation, Portugal almost always approves our uses. However, such broadly written agreements are the exception, and most contain limitations of the kind agreed to with Italy and the United Kingdom.

6. RELATIVE MERITS OF A SPECIAL U.S. NEGOTIATOR vs. A RESIDENT AMBASSADOR

As the representative of the United States to a foreign state, the ambassador naturally comes to mind when considering who should conduct a negotiation. A number of observers, however--including some former and current ambassadors who have led major base negotiations--believe that a high-level special negotiator headquartered within State is preferable at least for certain base negotiations.[6]

In discussing the merits or circumstances which might favor one over the other, all recognize that no rule can be arbitrarily applied in advance to all negotiations. Much depends upon the particular circumstances of each negotiation, such as whether the negotiation in question would even warrant a special negotiator. Also, all agree that the choice should not be made dependent upon any particular organizational structure used for the US side in the negotiation.

Among the factors bearing on a choice are: the degree of expertise the resident ambassador has with respect to the base host country and the topics common to any defense cooperation

Note 6: In DOD, all elements are united in the preference for a general policy of designating a special representative instead of a sitting ambassador. All other agencies believe that the choice between a special negotiator and the resident ambassador should be based, as it has in the past, on the specific circumstances of each negotiation.

negotiation; the level of his experience and the weight of his regular duties; the state of relations between the US and the host country; the degree to which other aspects of our bilateral relaions impinge upon the negotiations; and the availability of a special negotiator with suffcient stature and expertise in defense negotiations. Acknowledging that the factors above will dominate any choice, some generalized pros and cons are outlined below:

A Resident Ambassador:

- generally has a better understanding of the sum of factors bearing on the overall bilateral relationship with the host country, all of which influence the negotiations;
- almost always has more access to local officials, of importance in personalized governments in which key decisions on base issues are made by the country's leader rather than by its bureaucracy;
- can implement the agreement better with the host government if he has been intimately involved in the negotiations;
- can delegate much of the day-to-day negotiations to a senior member of his staff and keep himself in "reserve" for the most important decisions.

A Special Negotiator:

- can devote his full energies to the negotiation and is freed from the distractions of the often more pressing and important issues in the bilateral relationship, yet can call upon the Ambassador to "go over the head" of the special negotiator's counterpart at difficult moments;
- allows the Ambassador and to a lesser extent his country team to distance themselves from a protracted, contentious activity that otherwise could degrade their ability to pursue the many other aspects of the bilateral relationship;
- is more likely to bring to the negotiations a broader perspective concerning the US's global basing concerns and the effect of one agreement upon arrangements elsewhere, and is generally able to marshal a more senior, broadly based team;

- need not be as concerned in his bargaining about any reduction in his subsequent effectiveness with the host country;

- being based in Washington and having been selected specifically for the negotiations, will convey to the other side the sense of dealing directly with someone who is well-connected with the top levels in Washington; and

- is better able to conduct the negotiations when held in Washington or rotated between capitals, which assists in reducing the pressures of the other side's domestic politics.

Even when a special negotiator with an extensive staff not primarily drawn from the US missions to the host country is used, he will need to coordinate closely with the Ambassador and his country team in order to harmonize the conduct of the negotiation with other US policies toward the host country. Also, a negotiating team drawn from the Ambassador and/or his country team needs to give special attention to the thinking and desires of all concerned Washington agencies.

II. Guidelines for Upcoming Base Negotiations

Within the next twelve months we will undertake major base negotiations with Greece, Portugal, and the Philippines. In addition, there will probably be lesser, yet significant, negotiations such as for our facilities in the Bahamas and Bermuda or access talks similar to those consummated recently with Oman and Morocco. While it is not possible to construct one set of guidelines for all of these talks, one may create a conceptual framework for approaching and analyzing each negotiation with a view to bargaining effectively.

1. GENERAL NEGOTIATING PRACTICE

Each negotiation is driven by two distinct factors: 1) what each specific country can offer in the context of our global as well as regional operational and security needs and 2) the relationships--political, economic, military--the US has and seeks with each host country. Neither factor should be be allowed to dominate a base negotiation, and in each negotiation the proper balance between the two is different. The foundation of a successful negotiating strategy, however, must have identified US interests in both areas and have considered how they affect one another.

After determining our worldwide and regional operational requirements, we must examine how each base or facility fits into them. For example, how is each base to be used: multilaterally in an alliance, bilaterally with the host nation, or individually by the U.S.? Within each of these broad categories defining a base's geopolitical purposes, come the specific military operations for which the base is used--such as intelligence collection, naval and air support, and repair facilities--in meeting national security objectives. Any comprehensive survey of our basing needs, however, must take into account the size of past US investments in developing a particular facility or base complex; sometimes it is more practical and cost-efficient to accept less desirable terms in order to avoid major alterations to our overall basing structure.

At the same time, the base negotiation process cannot be limited to a mere calculation of operational military requirements alone. The overall relationship with each country must be considered, and that relationship includes political,

diplomatic, cultural, and economic as well as defense components. For example, a base relationship can be a sign of our support for a nation's government or it can be symbolic of a long-term, close bilateral relationship or regional commitment. Certain major realignments in base relationships might be desirable from an operational point of view, but could be unwise politically.

In preparing for future negotiations, we must define the relationship among these factors as accurately as possible. It is certainly impossible to establish a rigid, worldwide measure for the relative importance of each. Rather, each negotiation embodies a unique relationship between our operational and political interests. This relationship is best understood by careful study, setting forth in detail our global and regional military requirements for the bases being discussed and the role which a specific base relationship plays in our overall bilateral relations. With this information, the Administration will be better able to decide what a base relationship is worth to us. If it entails quids, we will be better able to decide what we are prepared to provide in exchange for what the host government offers.

In order to protect US capital investments and to reduce the pace at which quid demands grow, the US should seek agreements for as long a period as possible. Where the quid demands are exorbitant, we must weigh the potential costs against the value of the overall interests at stake. To do so, we should have determined prior to the negotiations the ultimate value of a specific base or operation, the availability of alternative facilities, and the feasibility and costs of relocation. We should not have to struggle for such definitions during impasses in ongoing talks.

In any case, our overall negotiating strategy should seek to provide in the agreement for subsequent negotiation of lesser changes or additions to our activities. This could be coordinated by the appropriate theater command or the Ambassador concerned, depending upon the issues, with oversight by State, OSD, the Joint Staff, and the Services.

2. POTENTIAL EFFECTS OF ONE NEGOTIATION UPON ANOTHER

Base hosts watch other base negotiations very carefully. When their turn comes, they are likely to seek promises of quid and, perhaps, restrictions obtained by their predecessors. They may also seek certain advantageous formal considerations, such as side letters indicating political support. While the

US correctly argues that the conditions of each bilateral negotiation and relationship is unique, the fact that we agreed to a measure for one ally makes it quite difficult to refuse to another.

The degree to which one negotiation affects another varies. In certain relationships, such as those between Greece and Turkey and now perhaps between Portugal and Spain, one negotiation has a strong effect on the other. In others, the overall relationships between two very different countries and the US may be such that the base negotiations have little effect on one another.

There is little one can do to dissuade base hosts from trying to best one another in their negotiations with us. Even so, we must resist the efforts of allowing our agreements with one country to be linked to those with another. While we must remain aware of the effect which any concession by us in one set of talks is likely to have on others, we should not allow this concern to preclude our advancing imaginative solutions to unusual problems for fear that others might demand the same. Persuading hosts to place in confidential annexes the terms of restrictions on our activities, for example, helps to limit their repetition elsewhere--though local circumstances often prevent use of this avenue.

3. INTERAGENCY COORDINATION AND CONTROLS FOR NEGOTIATIONS

(S) Successful negotiations for the US require thorough interagency coordination. This means a complete exchange of information and ideas involving all interested parties throughout the process and interagency agreement on substantive positions. While State and Defense will take the most comprehensive interest in any base negotiation, other agencies, including Treasury, the NSC staff, and OMB, must also take part in interagency planning. The most suitable vehicle for this planning is an interagency group (IG) or senior interagency group (SIG) established under the authority of NSDD 2-82.

While an IG/SIG is the appropriate organizational structure, the Department of State's Circular 175 will remain the document used to reflect interagency coordination. A Circular 175 action memorandum, requiring approval by at least an under secretary of State, is prepared before each negotiation. The memorandum sets forth the basic goals and strategies, and discusses matters such as the legal authority for all proposals contemplated by the US side. Once agreed to by the agencies represented in the negotiations, the memorandum becomes the basic guidance for the negotiator and his team.

The chief negotiator, whether a special representative or the Ambassador, needs to be based in the agency which has the lead in foreign affairs, State. He should also have one or two special assistants not having other organizational responsibilities whose sole duties are to assist him, in Washington and the foreign capital. The negotiator will have a number of other members on his team representing the concerned bureaus in State and other agencies, such as the Office of the Secretary of Defense and the Joint Staff.

The chairman of the interdepartmental group which formulates the negotiator's instructions has a sizable responsibility as well. Typically an assistant secretary of State or equivalent, the chairman is responsible for ensuring effective coordination among interested agencies. This involves far more than keeping others informed. The chairman--and his deputy--must both solicit and lead. The chairman should use the interagency process to prepare negotiating objectives and instructions for the negotiator that reflect an interagency consensus of views rather than his own policy preferences or those of his bureau or agency. At a minimum, he must ensure that each agency having an interest in any significant issue at hand has an opportunity to air its views before he attempts to gain acceptance of a compromise position. Only through such evenhandedness can the chairman and his deputy possess at all times the full confidence and cooperation of other organizations with their often differing interests.

Even the most skilled and fairest IG chairman, however, can encounter divergences of inter- and intra-agency views during the negotiations that, left to fester, can hinder the achievement of our objectives. These differences should be referred promptly to the SIG for resolution. Because of this role, the SIG will need to have been kept adequately informed of the negotiations and in particular of any US internal differences in order to resolve such disputes quickly. This will entail periodic, written interagency status reports fully reflective of any such differences. Significant changes to the negotiating instructions in the Circular 175 authority should be presented at an IG or SIG for interagency consideration and concurrence prior to their being submitted for approval to an undersecretary of State.

The single most important relationship is that between the chief negotiator and the principal representative from DoD on his team. The defense representative will not only be responsible for advising the negotiator on US operational military requirements, he should also command a sufficient voice in DoD councils to obtain the participation of DoD in

imaginative solutions to negotiating problems. The relationships of the negotiator with the National Security Council staff and other major agencies, such as OMB, are also important to the successful execution of our negotiating strategy. These agencies should appoint senior representatives to work closely with the interagency committee chairman and the chief negotiator.

Finally, both the negotiator and the interagency chairman must cultivate key senators and congressmen. Without discussing the specifics of the Executive Branch's negotiating strategy, the negotiator and the interagency chairman, in joint State/DoD briefings, need to keep the Congress well informed of our negotiating objectives and what their achievement may entail in the way of quids or even legislation.

4. ELEMENTS TO ASSURE NEGOTIATING OBJECTIVES ARE MET

As noted above, and based in large part upon our discussions with former chief negotiators and other participants in base negotiations, we can identify five elements which provide the best prospects of a successful negotiation for the US.

- The entire bilateral relationship needs to have been examined anew; after having identified areas that can affect the negotiations, we need to take steps to correct problems or to take advantage of opportunities.

- The current status of our military activities in the host country, to include a judgment of the relative importance of all facilities to us and of the costs of relocating them, needs to be reviewed prior to the negotiations. Alternatives in other countries should also be examined.

- The negotiating team needs to have clearly stated, agreed objectives which delineate to the degree feasible our optimum, basic, and minimum positions.

- The Washington IG chairman for the negotiations needs to develop and to retain the trust and cooperation of all concerned agencies. Instructions to the negotiator should reflect either consensus or the full resolution of differences.

5. AREAS FOR FURTHER STUDY

Some subjects bearing on base negotiations have been identified which deserve further discrete study. The members of this IG collectively recommend that the National Security Council assign one of these topics to the Interagency Group on Base Negotiations, with its current terms of reference, for study. The topic concerns improved or alternative approaches to quid; a study is already in progress at State, and will:

-- consider altering the security assistance process in ways (eg., multi-year funding not tied to the life of the base agreement) that would lessen the pressures from base hosts--and from elements within the US Government--that lead to distortions in the allocation process; and

-- address the possible advantages and disadvantages of seeking Congressional authorization of a separate base quids account (not necessarily linked to FMS credits) and, conversely, of a sustained effort to generate among the five allies addressed in this paper a renewed sense of common security interests.

The Base Negotiations IG has also addressed whether to recommend a comprehensive analysis of our overseas facilities and the criticality of their missions (with particular attention to the five countries addressed in this paper). Such a study could:

-- identify the feasibility, military impact, and costs of relocating the activities in a country to the US or to other overseas locations or of ceasing them altogether; and

-- serve as the basis of defining the marginal worth of a country's facilities to us in terms of quid demands.

The IG could not reach a consensus on whether to recommend such a study.[7]

NOTE 7: DOD is of the opinion that such a study would almost certainly be overcome by events by the time it was completed and would fail to highlight the most current political, economic, and security dynamics in the country and region of interest. The best time to do a country-specific study is just prior to negotiations, as we now do. Moreover, attempting (cont.)

Note 7 (cont.)

to define the "marginal worth of a country's facilities to us" would be a futile effort subject to gross and costly misinterpretation. The relative importance of one base compared with another is impossible to determine without first identifying a specific scenario in which a base might be needed. Contingency planning, by definition, means that we cannot predict events and, therefore, we maintain access to a global network of bases more valuable than the sum of its parts.

All other agencies, on the other hand, believe that such a study would prove to be a quite useful frame of reference for our global approach to US mutual security interests, and would be the appropriate complement to the study on quid. State does not wish such a study to supersede the more detailed analysis of the facilities in a particular country which the US does--and should continue doing--before a specific negotiation. Rather, the global study is needed in order to place our interests in any one country into the perspective of our overall interests and capabilities.

III. Recommendations

The paper concludes that, before each negotiation, we should accomplish the following tasks:

- Examine critically the bases and facilities used by the US in the host country both in terms of US defense and international security objectives (including the feasibility of their relocation) and in terms of the role of the bases and facilities in our overall bilateral relationship with that country.

- Ensure that we are properly prepared for the negotiation both in terms of a suitable negotiating team and chief negotiator and in terms of having consulted sufficiently widely both within the Executive Branch and with Congress on our objectives and needs, especially with regard to quids.

- In particular, decide whether the resident Ambassador or a special negotiator should head the negotiating team.

- Incorporate the results of the above three steps into a request for Circular 175 authority that has been thoroughly reviewed in an Interagency Group established on a continuing basis for the duration of the negotiation.

- The IG for a given base negotiation should prepare periodic reports in order that senior levels of the Executive Branch are kept fully abreast on the progress in the talks and are aware of any developing interdepartmental differences over the direction the US side should take.

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T A B S

1. (S) NSC 7/16/82 Memo Requesting Base Negotiations Analysis

2. (C) Security Assistance Charts

3. (LOU) Quids Under Current Agreements

4. (C) Analysis of Eight Recent Negotiations

   A. 1976 DCA with Turkey
   B. 1976 Treaty with Spain
   C. 1977 DCA with Greece
   D. 1979 Amendments to Philippine MBA
   E. 1979 Amendments to Lajes Agreement with Portugal
   F. 1980 DECA with Turkey
   G. 1980 DECA with Greece
   H. 1982 Agreement with Spain

5. (C) Significant Negotiations Anticipated During 1982-84

6. (U) List of Persons Contacted for the Study